BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Provision of Directory Listing Information Under the Communications Act of 1934, As Amended	CC Docket No. 99-273
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	CC Docket No. 92-105
Administration of the North American Numbering Plan	CC Docket No. 92-237

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA

The California Public Utilities Commission (California or the CPUC) and the People of the State of California hereby submit these comments in response to the Notice of Proposed Rulemaking (NPRM) released on January 9, 2002 by the Federal Communications Commission (Commission) in the above-captioned proceedings.

I. INTRODUCTION

In the NPRM, the Commission seeks comment on ways to promote competition and choice in the retail directory assistance (DA) market.[1]

[1] See Notice of Proposed Rulemaking, FCC 01-384, ¶ 1.

Specifically, the Commission seeks comment on a method proposed by Telegate, Inc., which would require presubscription for the 411 dialing code to make the DA market more competitive.[2] The Commission also asks for comment on alternative dialing methods, such as national 555 numbers, Carrier Access Codes (CACs), 411XX and eliminating the 411 dialing pattern to enhance competition in the retail DA market.[3] The CPUC offers comments on these proposals.

II. SUMMARY

The CPUC does not support Telegate's proposed method of 411 presubscription to increase competition in the retail DA market. The Commission should not mandate that California or other states implement 411 presubscription because it would result in minimal, if any, benefits to consumers, but would impose significant financial and regulatory burdens on the CPUC. It would also raise significant consumer protection concerns. Additionally, the CPUC opposes eliminating the 411 dialing pattern as the means to increase customers' choice of DA providers. The 411 abbreviated dialing code is a well-established, recognized dialing pattern that customers have come to associate with DA service.

Alternatively, the CPUC supports the Commission further exploring other dialing methods such as national or regional 555 numbers, CACs, and 411XX as ways to make DA services more competitive. These alternative dialing methods would perhaps be better means to promote competition in the DA market than the

[2] Id.

411 presubscription proposed by Telegate because they appear to be less costly and technically easier to implement.

III. DISCUSSION

In California, the DA market is somewhat open to competition. In 1996, the CPUC found DA service to be partially competitive.[4] Presently, both local service providers and interexchange service carriers provide DA services. California consumers have the following choices for DA service:

1. For a wireline interLATA DA call, customers can obtain service from either their local service provider or their presubscribed local interexchange carrier;
2. For a wireline intraLATA DA call, whether local or toll, customers obtain service from their local service provider; and
3. Customers can also obtain DA service using their wireless phone or over the Internet.

A. The Commission Should Not Mandate California to Implement 411 Presubscription.

Telegate has proposed a method called 411 presubscription. This proposal would essentially allow customers to preselect their DA service provider using the

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[3] Id. at ¶¶ 45, 47, 50.

[4] See CPUC D.96-03-020, Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service, p. 55.

411 abbreviated dialing pattern just as they do for their long distance services.[5] Although the CPUC supports making the retail DA market more competitive, we do not support Telegate's proposal because the benefits of this approach are unclear at best. For example, it is unclear whether 411 presubscription would translate into lower rates for customers. It is also unclear whether more carriers would enter the retail DA market to compete if presubscription were permitted. Additionally, according to Qwest cited in the NPRM, rising Internet and wireless penetration will lead to reduced usage of wireline DA local services.[6] Qwest predicts that the demand for DA will decline and revenues will also decrease as consumers rely on other modes of media to obtain information.[7] If Qwest's assertion and prediction are true, it is questionable how beneficial the 411 presubscription would be to consumers.

In contrast, it appears that implementation of 411 presubscription likely would result in significant financial and regulatory costs to both the CPUC and California customers. While carriers disagree on exactly how much the DA presubscription implementation will cost, they appear to agree that the cost will be substantial. Telegate estimates that the cost to implement DA presubscription nationwide would be approximately $23 million.[8] Many carriers, however, disagree with Telegate's estimate and comment that the cost would be far greater than $23 million. Verizon estimates that the major costs of implementing DA

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[5] Id. at ¶ 4.
[6] Id. at ¶ 19.
[7] Id. at ¶ 20.

presubscription would exceed $310 million.[9] Telegate acknowledges that its cost estimate does not include certain costs such as the costs of equipment installation, Operational Support System upgrades and deploying a balloting process for consumers to select new DA providers. [10]

In addition to the substantial implementation cost, the 411 presubscription raises a number of consumer protection concerns. The CPUC is concerned that DA presubcription will create new cramming and slamming opportunities. It appears likely that both the Commission and the CPUC will need to devote time and resources to police cramming and slamming in the DA market. Second, customers that decide to select new DA providers will need to verify their selection through a third party, similar to the practice for switching long-distance carriers, either over the telephone or through a letter of authorization. The development and implementation of a third-party verification system will require additional CPUC and carrier resources. In addition, third-party verification will add to the costs of provisioning the service itself. Third, in the event a customer chooses not to preselect a DA provider, the CPUC would need to implement a mechanism for default provider status. Fourth, as some commenters have stated in the NPRM, providing customers with an opportunity to make an additional choice would likely result in customer confusion. The Commission and the CPUC will need to develop and implement a broad-based customer education program to

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[8] Id. at ¶ 30.

educate the public about new DA presubscription choices. As a result, the customer education effort would require substantial CPUC resources, as well as, funds to support the education effort. Lastly, if 411 presubscription is mandated, both the Commission and the CPUC will need to decide whether and how the various implementation costs noted above should be recovered in customer rates. Moreover, the CPUC believes the Commission should not mandate California or other states to implement 411 presubscription.

B. The CPUC Does Not Oppose the Use of Alternative Dialing Methods.

Alternative dialing methods such as 555 numbers, CACs and 411XX would perhaps be better solutions to increasing customer choice in the retail DA market. In the NPRM, the Commission states that, according to MetroOne, these methods would be less costly alternatives to 411 presubscription. The CPUC supports the Commission's further exploring these alternatives to determine whether implementing them would be less costly than 411 presubscription. The Commission should also assess whether these alternatives would be technically feasible and easier to implement than 411 presubscription.

C. The CPUC Opposes Eliminating 411 Dialing Code To Enhance Competition in the Retail DA Market.

Although the CPUC does not oppose using alternative dialing methods, we do oppose eliminating the 411 access code as the means to enhance competition.

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[9] Id. at ¶ 31.

According to the NPRM, Telegate states that if presubscription to 411 is not implemented and/or alternative methods are used for providing service, the use of 411 as an access code must be eliminated.[11] Telegate also argues that full competition in the DA market cannot exist until LECs no longer have exclusive possession of the 411 abbreviated dialing code.[12]

The CPUC recognizes that LECs have a monopoly over the 411 dialing code. However, the elimination of the 411 dialing code is not necessary to create a more competitive DA market and a level playing field for other DA providers. The 411 dialing code should be preserved because it is a universally recognized access code that customers have come to associate with DA. Eliminating the 411 dialing code may also cause undue customer confusion. There are other ways, such as alternative dialing methods, to increasing DA competition than eliminating the 411dialing pattern. Moreover, the Commission should retain the 411 dialing code and adopt other additional dialing methods to promote competition in the DA market.

IV. CONCLUSION

For the foregoing reasons, the CPUC opposes the Commission federally mandating presubscription to DA using the 411 abbreviated dialing pattern. We also oppose eliminating the 411 dialing pattern as the means to promote

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[10] Id. at ¶ 32.
[11] Id. at ¶ 45.
[12] Id. at ¶ 4.

competition in the retail DA market. We, however, do not oppose the Commission further exploring and considering alternative dialing methods, such as national 555 numbers, CACs, and 411XX to increase customer choice for DA services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Sindy J. Yun, hereby certify that on this 29th day of March, 2002, a true and correct copy of the forgoing document entitled, "COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA" was mailed first class, postage prepaid to all known parties of record.

/s/ SINDY J. YUN

Sindy J. Yun